IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

W.P.NO.1898 OF 2006

Kuldeep Kumar Sethee ..Petitioner

Vs.

Oil Natural Gas Corporation Ltd. and Anr. ..Respondents

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Kuldeep Kumar Sethee-Petitioner-in-person
Mr.N.Engineer i/b Divya Shah Associates for Respondents

...

CORAM: F.I.REBELLO AND SMT.V.K.TAHILRAMANI,JJ.
DATE : JULY 25, 2006

P.C.

1. The petitioner has approached this Court seeking various reliefs. Two of the reliefs sought namely promotion and departmental enquiry were the subject matter of Writ Petition No.1636 of 2005. By order dated 17.1.2006, the relief of promotion was not considered and in so far as the departmental enquiry was concerned, the enquiry was directed to be proceeded with except for directions set out in para 4 of the petition.

2. Apart from those two reliefs, the petitioner also seeks relief that order of transfer should be set aside. Earlier interim relief was sought in the matter of transfer which was rejected.

3. We have heard the petitioner who appears in person on the relief sought. There are instructions framed by the Respondents in the matter of job rotation transfer policy. In terms of clause 3(8) of the Transfer Policy, a person normally is to be transferred after completion of five years of service at one place. The petitioner had been posted in Mumbai for the last over 15 years. In other words, in normal course the petitioner would be liable to be transferred. It is the case of the petitioner that as his daughter is studying in XIIth standard and his wife is Central Govt. employee, the transfer ought not to be effected. Our attention is invited to clause 14 of the H.R.M. Handbook. A perusal of the Rules would indicate that it is open to the employer to transfer such an employee but if a student is studying in Xth and XIIth classes, then in that event, the family should be allowed to retain the accommodation till the academic year is over. This, therefore, by itself cannot be a ground not to effect

transfer on administrative grounds. In so far as the issue that the wife is a central Govt. employee, that also cannot by itself be a ground that the employee should not be transferred. Petitioner has already been at one place for the last 15 years. The Management is the best Judge in the circumstances to consider the transfer and personal grounds unless the petitioner points out arbitrariness and malafide in the order of transfer. The Apex Court has now clearly held that policy guidelines are merely instructions which normally the Court will not enforce and the remedy to the parties is to make representation. Even assuming that the instructions are enforceable, we have considered the policy. Policy clearly sets out that after completion of five years at one place, a person is liable to be transferred. The allegations of malafide or arbitrariness are only made because the enquiry is being conducted but that by itself can be no ground not to effect the transfer. The issue of charge sheet is distinct issue so far as the transfer is concerned. Petitioner was relieved on 30.5.2006. Till date, he has not joined at the place of transfer. It is his contention that the person who is holding a similar post at Mehsana, had not been

transferred. There is no specific averment by the petitioner that there is no post at Mehsana where he can discharge his duties. The only averment is that person at Mehsana had not been relieved. In our opinion, this by itself cannot be sufficient ground to hold that the transfer is arbitrary or malafide.

4. We, therefore, do not find any merit in this petition which is accordingly dismissed. However, considering the policy of the Respondents themselves that if a child is studying in XIIth standard, family should be allowed to retain the premises. Accordingly the family of the petitioner be permitted to retain the premises till the academic year is over i.e. till the examination of XIIth standard. This is subject to the condition that daughter of the petitioner is studying in XIIth standard.

5. With the above observation, petition is dismissed.

[F.I.REBELLO, J.]

[SMT.V.K.TAHILRAMANI,J.]